<center>**Remark**</center>

Applicants respectfully request reconsideration of this application as amended. Claims 1, 4-10, 13-16 and 19-21 have been amended. No Claims have been cancelled. Therefore, claims 1-26 are present for examination.

<center>**35 U.S.C. §103 Rejection**</center>

<center>*Wugofski et al.*</center>

The Examiner has rejected claims 1-26 under 35 U.S.C. §103 (a) as being unpatentable over Wugofski et al., U.S. Patent No. 6,003,041 ("Wugofski") in view of Rosser, U.S. Patent No. 6,446,261 ("Rosser"). Applicant understands this rejection to have two facets. First, the operations of e.g. claim 1, read on a process that might be performed by a person using the Wugofski system. Second, the Wugofski system augmented by the personalized commercials system of Rosser is the same as e.g. Claim 1.

Turning to the first issue. Claim 1, for example, has been amended to clarify that operations are performed at or by an electronic device rather than by a user operating a remote control. Notably, the electronic device selects one of the multiple versions by comparing identified characteristics of the respective versions to user preferences for program characteristics stored at the electronic device. In Wugofski, the electronic device performs no similar function. First, as mentioned before, it is the user that does the selecting. Second, there are no user preferences stored in the Wugofski system from which to make a comparison.

As to the combination, in Rosser, demographic or psychographic information (8:18) is collected in order to pick appropriate commercials for the expected viewers in a household. The viewer data is compared to data from advertisers to target the advertisements to the audience that

the advertiser is trying to reach. This is done in a process of generating tables at the cable head end that are downloaded to the set-top box to allow the set-top box to find how to categorize its viewers. Most of the specification is about how to make inferences about viewers based on what they watch and when. This portion of the specification deals at length with different types of television programs but only in terms of monitoring and interpreting, not automatically selecting. While Claim 7 suggests that a viewer can alter his profile, there does not appear to be any information about why or how. An additional feature is to "turn on to the channel indicated most likely by the viewer usage profile." (5:16) There does not appear to be any information on how the channel would be selected. Note, however, that a channel is not a television program, as recited in the claims.

Claim 1, for example, present several distinctions from Rosser and Wugofski. First, the television program is selected by the user and the system tries to find alternate versions of the same selected television program. In Wugofski, the user selects the television program and the system determines how to tune in that program. In Rosser, the system makes the selections. Neither reference deals with multiple versions of the same program.

In Claim 1, the multiple available version of the program are found in the electronic programming guide. In Wugofski and Rosser, there are no multiple versions of the same program. In Rosser, even the various commercials are not in the electronic programming guide but in a special purpose VBI decoder and profile matcher that uses a remotely generated table.

In Claim 1, selecting one of the multiple versions is by comparing the identified characteristics with user preferences for the characteristics. The user preferences are preferences received from the user and stored at the device. In Wugofski, the system finds the selected program, user preferences are not used.

In Rosser, there is a downloaded look-up table that would appear to map the inferred demographic/psychographic user profile to tags encoded with the commercials to allow the viewer and commercial to be matched. So any data entered by a viewer is used only indirectly in this demographic/psychographic process. In addition, characteristics of the advertisements are not compared to user preferences for those characteristics, instead a viewer profile is compared to the advertiser's target audience. This indirect process in Rosser is designed to select advertisements for maximum commercial effect (likely buyers), i.e. the advertiser's preference not the user's preference.

This last point can be further elucidated. Suppose Claim 1 is read onto Rosser. Limitations about the electronic programming guide, selecting a television program, multiple versions of that program, actions taken at the same electronic device, etc. are ignored. In such a reading Claim 1, may be read as receiving user preferences for advertisements, identifying characteristics of the advertisements and selecting advertisements that most closely match those user preferences. First, as mentioned above, Rosser does not compare what the user enters to any characteristics of an advertisement. Rosser compare a profile to an intended audience. Putting even this difference aside for purposes of an obviousness argument, what then are the preferences that a user may enter?

If the Rosser viewer entered, the types of characteristics suggested in Claim 7, then advertisers would not be helped. These characteristics have little, if anything, to do with whether the viewer is a likely buyer. If the Rosser viewer entered information about the products that he would like to buy, then this information can only be used indirectly. Assume, for example, that the buyer wants to see ads about Toyota Camrys and Honda Accords. This may be exactly the person that Ford and Chevrolet want to advertise to. Rosser either frustrates Ford and Chevrolet, or shows the viewer commercials that he doesn't want to see. Even if the Rosser viewer entered a preference

for mid-size cars generally, this may be the viewer that advertisers for car insurance companies, car accessories, car repairs, car supplies, gasoline stations, regional hotels, etc. may want to advertise to.

The very nature of advertising is to reach a likely buyer that is not currently planning on buying the product. The person who already intends to buy is not a good target for advertising. This is why Rosser focuses on demographic/psychographic profiles. The goal is to select something that the viewer would not select but that will influence the viewer because the advertisement is targeted to that type of person. The only useful data that a user could enter is the type of demographic/psychographic data that Rosser tries to infer. (12:61) It would defeat the purpose of Rosser to choose commercials that match with the user's own entered preferences, yet this is precisely what Claim 1 recites, selecting "one of the multiple versions for display by comparing the identified characteristics to the received user preferences for television program characteristics."

Accordingly Claim 1 is believed to be allowable over the cited combination. The remaining claims are believed to be allowable on similar grounds, among others.

Conclusion

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension. Charge our Deposit Account.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,
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